

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

JOHN B. TERRELL

PLAINTIFF

VS.

CIVIL ACTION NO. 3:04CV537TSL-JCS

MALCOLM MCMILLIN, ET AL.

DEFENDANT

ORDER

This cause is before the court on defendants' renewed motion for summary judgment. Plaintiff has filed no response to the motion, and the time for filing a response has long passed. The court, having not only considered defendants' renewed motion but having also reviewed the record and the court's earlier ruling on plaintiff's objection to the magistrate judge's report and recommendation, is now convinced that defendants are entitled to summary judgment. In short, plaintiff has no competent evidence to support his allegation that he sustained a broken finger while in the custody of the Hinds County Sheriff's Department. Plaintiff has offered his own testimony that his finger was broken; but his belief that he had a broken finger is not sufficient. Not only is his professed belief belied by other proof, including his failure to complain of a broken finger at any time while in the custody of the Hinds County Sheriff's Department, but also his certification at the time of his release from custody of the Hinds County Sheriff's Department that he had

suffered no injury while in the custody of the Sheriff's Department. But what is more important, and ultimately determinative, is the fact that plaintiff has no medical proof to substantiate his belief that he suffered a broken finger while in defendants' custody. The court concludes that summary judgment is in order.

Accordingly, it is ordered that defendants' renewed motion for summary judgment is granted. All outstanding motions are denied as moot.

SO ORDERED this 28th day of August, 2008.

/s/ Tom S. Lee
UNITED STATES DISTRICT JUDGE